

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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FRANK J. FERTITTA, III, et al.,	:	
	:	
Plaintiffs,	:	
	:	14-CV-2259 (JPO)
-v-	:	
	:	
KNOEDLER GALLERY, LLC, et al.,	:	<u>ORDER ADOPTING</u>
	:	<u>REPORT AND</u>
	:	<u>RECOMMENDATION</u>
Defendants.	:	
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J. PAUL OETKEN, District Judge:

On April 6, 2016, the Court entered a default against Defendants Jose Bergantiños Diaz, Jesus Angel Bergantiños Diaz, and Glafira Rosales. (Dkt No. 146.) This matter was then referred to Magistrate Judge Henry B. Pitman for an inquest into damages.

Judge Pitman conducted a thorough and careful inquest and issued a Report and Recommendation (the “Report”) that this Court award damages as specified in the Report. (Dkt. No. 169.) The Court has reviewed the Report.

No party filed a timely objection to the Report; therefore the Court reviews it for clear error. *See* Fed. R. Civ. P. 72(b), Advisory Committee’s Notes (1983) (“When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”); *see also Borcsok v. Early*, 299 F. App’x 76, 77 (2d Cir. 2008). Magistrate Judge Pitman’s well-reasoned Report presents no such errors and is therefore fully adopted by this Court. Accordingly, damages are awarded as calculated in the Report.

Default judgment is hereby entered against Defendants Jose Bergantiños Diaz, Jesus Angel Bergantiños Diaz, and Glafira Rosales in the amount of (1) \$22,050,000 to Plaintiff Frank

J. Fertitta, III, plus interest at the rate of nine percent accruing from April 8, 2008 through the date of judgment; and (2) \$2,280,000 to Plaintiff Eykyn Maclean, L.P., plus interest at the rate of nine percent accruing from March 27, 2014, through the date of judgment.

Plaintiffs may submit documentation supporting their request for costs, disbursements, and reasonable attorneys' fees within four weeks of the date of this order.

SO ORDERED.

Dated: August 2, 2018
New York, New York



J. PAUL OETKEN
United States District Judge